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# PRELIMINARY DRAFT

## No. 3104

PREPARED BY  
LEGISLATIVE SERVICES AGENCY  
2011 GENERAL ASSEMBLY

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### DIGEST

**Citations Affected:** IC 4-20.5; IC 20-26-7-0.3; IC 26-1-1; IC 26-2-9-0.2; IC 32-18-2-0.2; IC 32-20-3; IC 32-28-12-0.2; IC 32-29; IC 32-30-1-0.1; IC 32-34-10-0.2; IC 32-36-1-0.2; IC 34-30-9-0.2; IC 34-55-10-0.2; IC 36-6-1.1.

**Synopsis:** Noncode statutes. Codifies certain noncode provisions relating to property law. Repeals the corresponding noncode provisions. Repeals without codification, the following noncode statutes relating to property law: (1) Two 1985 statutes relating to the transfer of real property owned by the state. (2) A 1986 statute relating to transfer of the state land office to the Indiana department of administration. (3) Two 1986 statutes relating to the transfer of certain real property to the Indiana Medical History Museum. (4) Two 1988 statutes relating to the transfer of real property owned by the state. (5) A 1989 statute relating to the transfer of real property owned by the state. (6) A 1989 statute legalizing certain leases of the department of natural resources. (7) A 1989 statute relating to the transfer of state property. (8) A 1990 statute legalizing the alienation, inheritance, or assignment of certain easements. (9) A 1997 statute relating to the transfer of real property owned by the state.

**Effective:** July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 4-20.5-4-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 3. P.L.7-1993 does not give eminent domain powers to an agency that did not have those powers before July 1, 1993.**

SECTION 2. IC 4-20.5-7-20, AS ADDED BY P.L.20-2010, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 20. (a) As used in this section, "real estate and the improvements" refers to the real estate and the improvements generally known as the Old Pathology Building and the Dead House that are held by Central State Hospital and that are described as follows:

Part of the Southwest Quarter of Section 4, Township 15 North, Range 3 East, Marion County, Indiana, and being more particularly described as follows: Beginning at a point on the North line of said quarter section being North 88 degrees 20 minutes 04 seconds East (assumed bearing) 615.07 feet from the Northwest corner thereof; thence continue North 88 degrees 20 minutes 04 seconds East along said North line 298.15 feet; thence South 0 degrees 25 minutes 14 seconds West 986.30 feet; thence North 88 degrees 39 minutes 18 seconds West 184.05 feet; thence North 6 degrees 15 minutes 40 seconds West 979.13 feet to the point of beginning and containing 5.423 acres, more or less. Subject to right-of-way for Vermont Street off the entire North side thereof and all other legal easements and rights-of-way of record. Also subject to and together with an easement for ingress and egress being a part of the Southwest Quarter of Section 4, Township 15 North, Range 3 East, Marion County, Indiana, and being more particularly described as follows: Beginning at a point on the North line of said quarter section being North 88 degrees 20 minutes 04 seconds East (assumed bearing) 823.22 feet from the Northwest corner thereof; thence continue North 88 degrees 20 minutes 04 seconds East along said North line 90.00 feet;



1           thence South 0 degrees 25 minutes 14 seconds West 61.00 feet;  
 2           thence South 57 degrees 55 minutes 21 seconds West 71.07 feet;  
 3           thence South 0 degrees 25 minutes 14 seconds West 886.15 feet;  
 4           thence North 88 degrees 39 minutes 18 seconds West 30.00 feet;  
 5           thence North 0 degrees 25 minutes 14 seconds East 368.57 feet;  
 6           thence North 67 degrees 14 minutes 53 seconds West 155.70 feet;  
 7           thence North 6 degrees 15 minutes 40 seconds West 25.00 feet;  
 8           thence South 75 degrees 48 minutes 59 seconds East 151.27 feet;  
 9           thence North 0 degrees 25 minutes 14 seconds East 565.00 feet  
 10          to the point of beginning and containing in said easement 0.905  
 11          acres, more or less, subject to all legal easements and  
 12          rights-of-way of record.

13          (b) Notwithstanding any other law, the appropriate officials, acting  
 14          on behalf and in the name of the state, shall enter into a lease with the  
 15          Indiana Medical History Museum, Inc., or its successor, at the sole  
 16          option of the Indiana Medical History Museum, Inc., at the expiration  
 17          of the lease described in P.L.245-1986, SECTION 2 (**notwithstanding**  
 18          **its repeal**) or at any time during the lease described in P.L.245-1986,  
 19          SECTION 2 (**notwithstanding its repeal**), leasing the real estate and  
 20          the improvements.

21          (c) The Indiana Medical History Museum, Inc., shall use the real  
 22          estate and the improvements for public charitable, educational,  
 23          scientific, and general museum purposes.

24          (d) The lease described in subsection (b) must:

25               (1) be for a period of ninety-nine (99) years at a rental of one  
 26               dollar (\$1) per year with the option to renew the lease for an  
 27               additional ninety-nine (99) years at a rental of one dollar (\$1) per  
 28               year;

29               (2) allow the Indiana Medical History Museum, Inc., to purchase  
 30               services from Central State Hospital at the cost of those services  
 31               to Central State Hospital (the lease must provide a method of  
 32               determining these costs; however, the method may be amended  
 33               with the consent of the parties);

34               (3) provide that the Indiana Medical History Museum, Inc., is  
 35               responsible for the maintenance of the real estate and the  
 36               improvements;

37               (4) allow the Indiana Medical History Museum, Inc., to relocate  
 38               the improvements generally known as the Old Pathology Building  
 39               and the Dead House to a new site that is generally available to the  
 40               people of Indiana;

41               (5) require the Indiana Medical History Museum, Inc., to take title  
 42               to any improvement described in subdivision (4) that is  
 43               transferred to a site that is not owned by the state or an  
 44               instrumentality of the state, subject to a covenant, enforceable by  
 45               the state, restricting the use of the improvement to a charitable,  
 46               educational, scientific, and general museum purpose;



- (6) provide for the termination of the lease with respect to any improvement described in subdivision (4) that is moved to a site that is not owned by the state or an instrumentality of the state;
- (7) provide for the termination of the lease with respect to the real estate described in subsection (a) after all improvements described in subdivision (4) are transferred to another site, regardless of whether the site is owned by the state or an instrumentality of the state;
- (8) allow the state to terminate the lease if any of the real estate and improvements are subleased without the consent of the state or used for a purpose other than a public charitable, educational, scientific, or general museum purpose; and
- (9) permit amendments at any time with the consent of all parties to the lease.

SECTION 3. IC 20-26-7-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. (a) The actions of a school corporation taken before January 1, 1989, in acquiring any interest in real estate or a real estate improvement, under a deed that contains a reverter clause that limits the use of the property by the school corporation, are legalized.**

**(b) If a reversion occurs under a deed described in subsection (a), the school corporation is entitled to the improvements (or the fair market value of the improvements) made to the property by the school corporation.**

SECTION 4. IC 26-1-1-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. A transaction validly entered into after July 1, 1964, and before January 1, 1986, which:**

- (1) was subject to this article, as effective on December 31, 1985; and**
- (2) would be subject to P.L.93-1985 if it had been entered into after December 31, 1985;**

**and the rights, duties, and interests flowing from such a transaction remain valid after December 31, 1985, and may be terminated, completed, consummated, or enforced as required or permitted by P.L.93-1985. Security interests arising out of such a transaction that are perfected as of January 1, 1986, shall remain perfected until they lapse as provided by sections 0.4 and 0.5 of this chapter and may be continued as permitted by P.L.93-1985 except as stated in section 0.3 of this chapter.**

SECTION 5. IC 26-1-1-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.3. A security interest, for the perfection of which filing or the taking of possession was required under this article, as effective on December 31, 1985, and which attached before**



January 1, 1986, but was not perfected, is considered perfected on January 1, 1986, if P.L.93-1985 permits perfection without filing or authorizes filing in the office or offices where a prior ineffective filing was made.

SECTION 6. IC 26-1-1-0.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 0.4. (a) A financing statement or continuation statement filed before January 1, 1986, that has not lapsed before January 1, 1986, remains effective for the period provided in this article, as effective on December 31, 1985, but not less than five (5) years after the filing.

(b) With respect to any collateral acquired by the debtor after December 31, 1985, any effective financing statement or continuation statement described in this section applies only if the filing or filings are in the office or offices that would be appropriate to perfect the security interests in the new collateral under P.L.93-1985.

(c) The effectiveness of any financing statement or continuation statement filed before January 1, 1986, may be continued by a continuation statement as permitted by P.L.93-1985 except that if P.L.93-1985 requires a filing in an office where there was no previous financing statement, a new financing statement conforming to section 0.5 of this chapter must be filed in that office.

(d) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described in the mortgage if P.L.93-1985 had been in effect on the date of recording the mortgage, the mortgage is considered effective as a fixture filing as to such goods under IC 26-1-9-402(6), as amended by P.L.93-1985 and before its repeal, on January 1, 1986.

SECTION 7. IC 26-1-1-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 0.5. (a) If a security interest is perfected or has priority as of December 31, 1985, as to all persons or as to certain persons without any filing or recording, and if the filing of a financing statement would be required for the perfection or priority of the security interest against those persons under P.L.93-1985, the perfection and priority rights of the security interest continue until December 31, 1988. The perfection will then lapse unless a financing statement is filed as provided in subsection (d) or unless the security interest is perfected otherwise than by filing.

(b) If a security interest is perfected as of December 31, 1985, under a law other than this article, as effective on December 31, 1985, which requires no further filing, refiling, or recording to continue its perfection, perfection continues until and will lapse on



December 31, 1988, unless:

- (1) a financing statement is filed as provided in subsection (d);
- (2) the security interest is perfected otherwise than by filing;
- or
- (3) under IC 26-1-9-302(3), as amended by P.L.93-1985 and before its repeal, the other law continues to govern filing.

(c) If a security interest is perfected by a filing, refiling, or recording under a law repealed by P.L.93-1985, which required further filing, refiling, or recording to continue its perfection, perfection continues and will lapse on the date provided by the repealed law for the further filing, refiling, or recording unless a financing statement is filed as provided in subsection (d) or unless the security interest is perfected otherwise than by filing.

(d) A financing statement may be filed within six (6) months before the perfection of a security interest would otherwise lapse. Any such financing statement may be signed by either the debtor or the secured party. The financing statement must identify the security agreement, statement, or notice (however denominated in any statute or other law repealed or modified by P.L.93-1985), state the office where and the date when the last filing, refiling, or recording, if any, was made with respect to the security agreement, statement, or notice and the filing number, if any, or book and page, if any, of recording, and further state that the security agreement, statement, or notice, however denominated, in another filing office under this article, as amended by P.L.93-1985, or under any statute or other law repealed or modified by P.L.93-1985 is still effective. IC 26-1-9-401 and IC 26-1-9-103, as amended by P.L.93-1985 and before their repeal, determine the proper place to file such a financing statement. Except as specified in this subsection, the provisions of IC 26-1-9-403(3), as amended by P.L.93-1985 and before its repeal, for continuation statements apply to such a financing statement.

SECTION 8. IC 26-1-1-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 0.6. Except as otherwise provided in sections 0.2, 0.3, 0.4, and 0.5 of this chapter, this article, as effective on December 31, 1985, applies to any questions of priority if the positions of the parties were fixed before January 1, 1986. In other cases, questions of priority shall be determined by this article.

SECTION 9. IC 26-2-9-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 0.2. The addition of IC 32-2-1.5 (before its repeal, now codified in this chapter) by P.L.275-1989 does not apply to credit agreements entered into before July 1, 1989.

SECTION 10. IC 32-18-2-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



[EFFECTIVE JULY 1, 2011]: **Sec. 0.2. To the extent applicable, the following statutes (before their repeal by P.L.144-1994) apply to a transfer made or an obligation incurred before July 1, 1994:**

- (1) IC 30-1-9-7.
- (2) IC 32-2-1-7.
- (3) IC 32-2-1-8.
- (4) IC 32-2-1-9.
- (5) IC 32-2-1-10.
- (6) IC 32-2-1-14.
- (7) IC 32-2-1-15.
- (8) IC 32-2-1-16.
- (9) IC 32-2-1-17.
- (10) IC 32-2-1-18.

SECTION 11. IC 32-20-3-0.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.1. The amendments made to section 2 of this chapter by P.L.18-2008 apply only to determinations of marketable record title after June 30, 2008.**

SECTION 12. IC 32-20-3-2, AS AMENDED BY P.L.18-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 2. Marketable record title is subject to the following:**

- (1) All interests and defects that are inherent in the muniments of which the chain of record title is formed. However, a general reference in the muniments, or any one (1) of them, to:
  - (A) easements;
  - (B) use restrictions; or
  - (C) other interests created before the root of title;
 is not sufficient to preserve them, unless specific identification is made in the muniments of a recorded title transaction that creates the easement, use restriction, or other interest.
- (2) All interests preserved by:
  - (A) the filing of proper notice; or
  - (B) possession by the same owner continuously for at least fifty (50) years, in accordance with IC 32-20-4-1.
- (3) The rights of any person arising from adverse possession or adverse user, if the period of adverse possession or adverse user was wholly or partly subsequent to the effective date of the root of title.
- (4) Any interest arising out of a title transaction recorded after the effective date of the root of title from which the unbroken chain of title of record is started. However, the recording shall not revive or give validity to any interest that has been extinguished before the time of the recording by the operation of section 3 of this chapter.
- (5) The exceptions stated in IC 32-20-4-3 concerning:



- 1 (A) rights of reversioners in leases;
- 2 (B) rights of any lessee in and to any lease; and
- 3 (C) easements and interests in the nature of easements.
- 4 (6) All interests of the department of environmental management
- 5 arising from the recording of a restrictive covenant under IC 13,
- 6 **regardless of whether the recording occurred before July 1,**
- 7 **2008.**

8 SECTION 13. IC 32-28-12-0.2 IS ADDED TO THE INDIANA  
 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to**  
 11 **IC 32-8-24-2 (before its repeal, now codified at section 2 of this**  
 12 **chapter) by P.L.235-1993:**

- 13 (1) **apply to liens that are perfected before, on, or after April**
- 14 **22, 1993; and**
- 15 (2) **do not apply to divest a right that vested before April 22,**
- 16 **1993.**

17 SECTION 14. IC 32-29-1-0.2 IS ADDED TO THE INDIANA  
 18 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The addition of IC 32-8-11-9**  
 20 **(before its repeal, now codified at section 10 of this chapter) by**  
 21 **P.L.157-1990 applies to a mortgage lien created after June 30,**  
 22 **1990.**

23 SECTION 15. IC 32-29-7-0.2 IS ADDED TO THE INDIANA  
 24 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to**  
 26 **IC 32-8-16-1 (before its repeal, now codified at section 3 of this**  
 27 **chapter) by P.L.276-1995 do not apply to a complaint asking for**  
 28 **foreclosure that is filed before July 1, 1995.**

29 SECTION 16. IC 32-30-1-0.1 IS ADDED TO THE INDIANA  
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 31 [EFFECTIVE JULY 1, 2011]: **Sec. 0.1. The amendments made to**  
 32 **section 5 of this chapter by P.L.79-2005 apply only to a cause of**  
 33 **action accruing after June 30, 2005.**

34 SECTION 17. IC 32-34-10-0.2 IS ADDED TO THE INDIANA  
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The addition of IC 32-8-40**  
 37 **(before its repeal, now codified in this chapter) by P.L.110-2001**  
 38 **applies to all watercraft located on the property of a marina after**  
 39 **January 1, 2001.**

40 SECTION 18. IC 32-36-1-0.2 IS ADDED TO THE INDIANA  
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to**  
 43 **IC 32-13-1-8 (before its repeal, now codified at section 8 of this**  
 44 **chapter) by P.L.54-2001 apply only to written consents obtained**  
 45 **after July 1, 2001.**

46 SECTION 19. IC 34-30-9-0.2 IS ADDED TO THE INDIANA





CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE JULY 1, 2011]: **Sec. 0.2. (a) The addition of IC 34-4-16.9 (before its repeal, now codified in this chapter) by P.L.7-1993 is intended to be a restatement of IC 4-16-3 (before its repeal).**

**(b) It is intended that the substantive operation and effect of IC 4-16-3 continue uninterrupted.**

**(c) P.L.7-1993 does not affect any:**

- (1) rights or liabilities accrued;**
- (2) penalties incurred;**
- (3) violations committed; or**
- (4) proceedings begun;**

**before July 1, 1993. Those rights, liabilities, penalties, offenses, and proceedings continue and shall be imposed and enforced under IC 4-16-3 (before its repeal) as if P.L.7-1993 had not been enacted.**

SECTION 20. IC 34-55-10-0.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 0.2. The amendments made to IC 34-2-28-1 (before its repeal, now codified at section 2 of this chapter) by P.L.290-1989 apply to judgments obtained after June 30, 1989.**

SECTION 21. IC 36-6-1.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

**Chapter 1.1. Township Boundaries**

**Sec. 1. This chapter applies to any township boundary line that was altered before 1900 but for which the county auditor's records were never updated to reflect the boundary alteration.**

**Sec. 2. If the property tax records for the townships involved on December 31, 1984, did not reflect the boundary alteration, then the township boundary line shall be treated as if it had never been altered.**

**Sec. 3. Any action occurring before April 3, 1985, that failed to recognize a township boundary alteration to which this chapter applies is legalized and validated.**

SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2011]: P.L.93-1985, SECTION 42; P.L.93-1985, SECTION 43; P.L.93-1985, SECTION 44; P.L.93-1985, SECTION 45; P.L.93-1985, SECTION 46; P.L.370-1985, SECTION 1; P.L.370-1985, SECTION 2; P.L.370-1985, SECTION 3; P.L.371-1985, SECTION 1; P.L.371-1985, SECTION 2; P.L.17-1986, SECTION 14; P.L.245-1986, SECTION 1; P.L.245-1986, SECTION 2; P.L.11-1987, SECTION 36; P.L.134-1988, SECTION 5; P.L.206-1988, SECTION 1; P.L.206-1988, SECTION 2; P.L.194-1989, SECTION 4; P.L.275-1989, SECTION 2; P.L.290-1989, SECTION 2; P.L.349-1989, SECTION 4; P.L.157-1990, SECTION 2; P.L.184-1990, SECTION 1; P.L.7-1993, SECTION 16;



- 1 P.L.7-1993, SECTION 17; P.L.235-1993, SECTION 7; P.L.144-1994,
- 2 SECTION 5; P.L.276-1995, SECTION 2; P.L.250-1997, SECTION 1;
- 3 P.L.54-2001, SECTION 12; P.L.110-2001, SECTION 2; P.L.79-2005,
- 4 SECTION 3; P.L.18-2008, SECTION 3.

